IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN INSOLVENCY

PETITION NO.47 OF 2003

Re: Tahuur Hussain Shaikh Mohammad & Ors.
..Debtors.

Ex parte:

Madanlal Otarmal ..Substituted Petitioning Creditor.

...

Mr. Kishore Jain for the Substituted Petitioning Creditor.
Mr. K.S. Dubey i/b V.K. Damle for the Debtors.

...

CORAM: DR. D.Y. CHANDRACHUD, J.

19th August, 2006.

P.C. :

1. This Petition was instituted by a Petitioning Creditor, Anil G. Shah, whose claim was satisfied by the Debtors. Thereafter a Substituted Petitioning Creditor M/s. Otarmal Kantilal & Co. was brought on the record whose claim has also been duly met. A further affidavit has been filed by Mr. Madanlal Otarmal who has been brought on the record as a Substituted Petitioning Creditor. The claim of the Substituted Petitioning Creditor is based on a decree passed by this Court in Summary Suit 3502 of 2000 in the amount of Rs.2,86,632.32 together with interest on the principal

sum of Rs.2.40 lacs at 6 %per annum from 7th August, 2000. In the supporting affidavit it has been stated that an aggregated amount of Rs.21,000/- has been paid after which no further payments have been made. Counsel appearing for the Debtors states that a total amount of Rs.53,000/- has been paid. Counsel appearing for the Substituted Petitioning Creditor now states that credit shall duly be given for all the payments which have been made. Counsel appearing for the Debtors states on instructions that the Debtors seek to pay the entire decretal amount by monthly installments of Rs.25,000/- which is not objected to by counsel appearing for the Substituted Petitioning Creditor.

2. In the circumstances, the following conditional order is passed :

i) The Debtors shall pay the entire decretal dues of the Substituted Petitioning Creditor in pursuance of the decree passed on 23rd April, 2001 in Summary Suit 3502 of 2000 in equal monthly installments of Rs.25,000/-, the first of which shall be paid on or before 11th September, 2006. The remaining installments shall be paid on or before the 10th day of each succeeding month. The last installment shall be of the balance that is due and payable inclusive

of interest:

ii) Upon the entire decretal dues being thus discharged, the decree shall be marked as satisfied and the Insolvency Petition shall be placed on Board for further directions;

iii) In the event that there are any two defaults in the payment of the installments or any part thereof or in the payment of the last installment, in that event the Insolvency Petition shall stand absolute in terms of prayer clauses (a) and (b) and the Insolvency Registrar shall take necessary consequential steps in accordance with law. Counsel appearing on behalf of the Substituted Petitioning Creditor undertakes to inform the Insolvency Registrar upon the satisfaction of the entire decretal dues or, as the case may be, in the event of default.